

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEANDRE FLUELLEN,

Defendant.

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CASE NO. 1:15-cr-00435

OPINION & ORDER  
[Resolving Doc. [15](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Defendant Deandre Fluellen requests a reduced sentence under the compassionate release statute, 18 U.S.C. § 3582.<sup>1</sup> The Government opposed Fluellen's petition.<sup>2</sup>

For the reasons stated below, the Court **GRANT** Fluellen's motion for compassionate release.

**I. Background**

On January 5, 2016, Defendant Fluellen pleaded guilty to one count of being a felon in possession of a firearm and ammunition.<sup>3</sup> On April 22, 2016, this Court sentenced Fluellen to 77 months imprisonment.<sup>4</sup> The Court ordered that 7 months of the sentence should be served concurrently and 70 months consecutively with the sentence imposed by Judge Polster in a contemporaneous case.<sup>5</sup>

On April 13, 2020 Fluellen filed the instant motion for compassionate release.<sup>6</sup>

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<sup>1</sup> Doc. [15](#). Fluellen also filed two supplements. Docs. [16](#) and [17](#).

<sup>2</sup> Doc. [18](#).

<sup>3</sup> Doc. [8](#).

<sup>4</sup> Doc. [14](#).

<sup>5</sup> *Id.*

<sup>6</sup> Doc. [15](#).

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For the following reasons, the Court **GRANTS** Fluellen's motion for compassionate release.

## **II. Discussion**

### **A. Exhaustion**

The Court may modify a defendant's term of imprisonment upon a motion from a defendant once 30 days have expired since the warden of the defendant's facility received such a motion from the defendant.<sup>7</sup> On April 15, 2020, Fluellen received a letter from the Warden acknowledging Fluellen's compassionate release petition and denying the request.<sup>8</sup> Because more than 30 days have expired since Fluellen's request, he has met the statutory exhaustion requirement.

### **B. Eligibility**

To grant compassionate release, the Court must find that "extraordinary and compelling reasons warrant such a reduction" and "that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission."<sup>9</sup> The Court must also consider the sentencing factors set forth in 18 U.S.C. § 3553.<sup>10</sup> Under the compassionate release statute, the Court may "reduce the term of imprisonment and impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment."<sup>11</sup>

Fluellen argues that he suffers from medical conditions that put him at higher risk of serious medical consequences, including death, if he contracts COVID-19. Specifically, he

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<sup>7</sup> 18 U.S.C. § 3582(c)(1)(A)(i).

<sup>8</sup> Doc. 16-2.

<sup>9</sup> 18 U.S.C. § 3582(a)(1)(A).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

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states that he has high blood pressure and hypothyroidism.<sup>12</sup> Fluellen provides medical records documenting his hypothyroidism diagnosis and medications and showing instances where he was recorded as having “elevated blood pressure.”<sup>13</sup> Additionally, he states that he is obese, which carries a greater risk is he contracts the virus.<sup>14</sup>

Fluellen’s conditions, in conjunction with the presence of COVID-19 at FMC Lexington, are extraordinary and compelling reasons that justify the grant of compassionate release.<sup>15</sup> Because Fluellen is at a greater risk for medical complications if he contracts the virus, Fluellen’s health and life are in grave danger if he continues to serve his sentence at FMC Lexington. Moreover, granting compassionate release here accords with 18 U.S.C. § 3553(a) and the Sentencing Commission’s policy statements.

### III. Conclusion

For the foregoing reasons, the Court **GRANTS** Fluellen’s request for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). The Court orders that Fluellen shall serve his remaining months of imprisonment on supervised release. The conditions of that supervised release include those originally imposed at Fluellen’s sentencing, with the additional requirement of home incarceration with electronic monitoring. After Fluellen’s period of supervised release with home confinement expires it is to be followed by the three years of supervised release imposed at Fluellen’s sentencing, under the supervised

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<sup>12</sup> Doc. 16 at 1-2.

<sup>13</sup> Doc. 16-1.

<sup>14</sup> Doc. 17.

<sup>15</sup> [Commentary to FSG § 1B1.13](#).

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release terms of his original sentence.<sup>16</sup>

IT IS SO ORDERED.

Dated: July 15, 2020

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>16</sup> Doc. 14.